

**IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION AT AKRON**

<b>IN RE:</b>	)	<b>CASE NO. 05-59305</b>
	)	
<b>DAVID N. DOLTON</b>	)	<b>ADVERSARY PROCEEDING</b>
	)	<b>NO.</b>
<b>Debtor</b>	)	
	)	<b>IN PROCEEDINGS UNDER</b>
<b>HAROLD A. CORZIN, TRUSTEE</b>	)	<b>CHAPTER 7</b>
<b>304 N. Cleveland-Massillon Road</b>	)	
<b>Akron, OH 44333</b>	)	<b>BANKRUPTCY JUDGE</b>
	)	<b>MARILYN SHEA-STONUM</b>
<b>Plaintiff</b>	)	
	)	
<b>vs.</b>	)	
	)	
<b>JEFFREY RECHTORIK</b>	)	<b>COMPLAINT</b>
<b>561 High Street</b>	)	
<b>Doylestown, OH 44230</b>	)	<b>TYPE: LIEN AVOIDANCE</b>
	)	<b>PREFERENCE/FRAUDULENT</b>
<b>Defendant</b>	)	<b>TRANSFER</b>

Now comes Harold A. Corzin, Trustee, the plaintiff herein, and for his causes of action against the defendant, Jeffrey Rechterik, states as follows:

**I - JURISDICTION AND PARTIES**

1. This court has jurisdiction over the within adversary proceeding pursuant to 28 USC section 1334 and 28 USC section 157 and the claims set forth herein are core proceedings within the meaning of the United States Bankruptcy Code.

2. The plaintiff, Harold A. Corzin, Trustee, is the duly appointed, qualified, and acting trustee for the debtor, David N. Dolton, who commenced his petition seeking relief under Chapter 7 of the United States Bankruptcy Code on the 14<sup>th</sup> day of October 2005.

3. The defendant, Jeffrey Rechterik is an individual and a resident of Summit County, Ohio.

## **II - FIRST CLAIM FOR RELIEF**

4. The defendant, David N. Dolton is the owner of certain property known for mailing purposes as 1814 Leolyn Street, Pittsburgh, Pennsylvania, 15210 and more particularly described in "Exhibit A" attached hereto and incorporated herein by reference as if rewritten in full.

5. Although said property, at the time of the filing of the bankruptcy petition, evidenced legal title in the name of Tracey Rechterik, such property constitutes property of the estate of the debtor pursuant to section 541 of the United States Bankruptcy Code.

6. That such property constitutes property of the estate which the trustee may use, sell, or lease pursuant to section 363 of the United States Bankruptcy Code.

7. The defendant, Jeffrey Rechterik, has or may claim to have some interest in said property and should be required to set forth such interest or be forever barred.

8. That the determination of the lien, claim, or interest of the defendant, Jeffrey Rechterik, in and/or to said real property is necessary for the proper administration of this estate.

## **III - SECOND CLAIM FOR RELIEF**

9. That the debtor, David N. Dolton, did transfer money to Tracey Rechterik for her use as his agent to acquire the property described in "Exhibit A" or alternatively the funds used for the purchase were transferred to Tracey Rechterik under circumstances where the debtor received less than a reasonably equivalent value in exchange for such transfer obligation and the debtor was insolvent on such date.

10. That an equitable trust is imposed upon these transfers of funds.

11. That this transfer was made within one year of the date of the filing of the petition and were voluntarily performed by the debtor.

12. That Tracey Rechterik has executed her deed conveying said property described in "Exhibit A" into the name of the debtor and such property, to the extent not previously property of the estate, became property of the estate by virtue of said conveyance.

13. That during the time period that legal title was held in the name of Tracey Rechterik, her former spouse, Jeffrey Rechterik, caused a judicial lien to be filed in accordance with the laws of the state of Pennsylvania and such lien acts as a cloud upon the title of the plaintiff.

14. That the filing of the judicial lien effectuates a transfer of property and as a consequence, if the property were property of the debtor, David N. Dolton, Jeffrey Rechterik would constitute an immediate transferee of the initial transferee, Tracey Rechterik.

15. That Jeffrey Rechterik did not give value and did not take his lien in good faith and without knowledge of the voidability of the transfer avoided.

16. That Jeffrey Rechterik knew Tracey Rechterik did not have assets from which the real property described in "Exhibit A" could have been obtained by virtue of his marriage and divorce from said Tracey Rechterik.

17. That such transfer is avoidable pursuant to sections 548 and 550 of the United States Bankruptcy Code and such lien does not properly encumber the property of the estate or alternatively is avoidable.

#### **IV - THIRD CLAIM FOR RELIEF**

18. That the transfer from David N. Dolton to Tracey Rechterik, if a transfer in fact occurred, was fraudulent as to creditors of said David N. Dolton under the laws of the state of Pennsylvania including specifically section 5105 of the Pennsylvania Consolidated Statutes since such transfer was made without the debtor receiving a reasonably equivalent value in exchange for the transfer and the debtor was insolvent at the time of said transfer or the debtor became insolvent as a result of the transfer.

19. That under the laws of the state of Pennsylvania, including specifically section 5107 of the Pennsylvania Consolidated Statutes, the plaintiff had the right to avoid the transfer of the property described above from the debtor defendant to Tracey Rechterik.

20. That a good faith transferee is entitled to a lien to the extent of the value given the debtor for the transfer.

21. Neither Tracey Rechterik nor Jeffrey Rechterik gave value to the debtor and Jeffrey Rechterik did not give value to Tracey Rechterik for the transfer of this interest to Jeffrey Rechterik. Since in exchange for the transfer obligation, no property was transferred by Jeffrey Rechterik to Tracey Rechterik or David N. Dolton, and no antecedent debt owing from Tracey Rechterik or David N. Dolton to Jeffrey Rechterik was satisfied nor was an antecedent debt owing from Jeffrey Rechterik to David N. Dolton or Tracey Rechterik secured.

WHEREFORE, movant prays that this court declare and determine the right, title, or interest in and/or to the real estate described in "Exhibit A" of Jeffrey Rechterik grant plaintiff avoidance of the claimed lien of Jeffrey Rechterik pursuant to section 548 and Chapter 51 of the Pennsylvania Consolidated Statutes and section 550 as made applicable to both section 548 and Chapter 51 through section 544 of the United States Bankruptcy Code, for his costs herein incurred and for such other and further relief as is just and proper.

GIBSON & LOWRY

/s/ Michael J. Moran

Michael J. Moran (#0018869)

Attorney for Plaintiff

234 W. Portage Trail

P.O. Box 535

Cuyahoga Falls, OH 44222

[moranecf@yahoo.com](mailto:moranecf@yahoo.com)



Allegheny County  
Valerie McDonald Roberts  
Recorder of Deeds  
Pittsburgh, PA 15219

Instrument Number: 2005-3677

Recorded On: February 04, 2005 As-Deed

Parties: D N S HOLDINGS L L C

To RECHTORIK TRACEY

# of Pages: 5

Comment:

**\*\*DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT\*\***

Deed 45.00

Pages > 4 0

Names > 4 0

Total: 45.00

**Realty Transfer Stamp**

Affidavit Attached-No		Stamp Num-T211720	
PITTSBURGH			
Ward-29-CARRICK			
Blk/Lot-60M86	Value	45,000.00	
Commonwealth of Pennsylvania		450.00	
Munic-Pittsburgh City of		900.00	
School District-Pittsburgh		450.00	
		1,800.00	

**Deed Registry Stamp**

OFFICE OF PROPERTY ASSESSMENTS - BLOCK AND LOT NUMBER	
<i>Shirley J. Wilson</i>	60-M-86
Date: 1/1 - Int. By:	2-5-2005

I hereby certify that the within and foregoing was recorded in the Recorder's Office in Allegheny County, PA

**\*\*DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT\*\***

**File Information:**

Document Number: 2005-3677

Receipt Number: 382498

Recorded Date/Time: February 04, 2005 01:50P

Book-Vol/Pg: BK-DE VL-12342 PG-233

User / Station: E McGuire - Cash Super 03

**Record and Return To:**

SECURITY SETTLEMENT SERVICES

150 ROBBINS STATION RD

N HUNTINGDON PA 15642

**PLAINTIFF'S  
EXHIBIT**

A.



*[Signature]*

01/20/2005 10:24 AM REC 002 (100)

ALLEGHENY COUNTY RECORDER OF DEEDS

No. 100-10000  
ALLEGHENY COUNTY DEEDS  
PART 1 of 2HAROLD E. STICKLER, III  
RECORDING DEEDS

# This Deed

Made the 26th day of January in the year 2005  
Between DNS Holdings LLC, a Pennsylvania Limited Liability Company

("Grantor(s)")

and

Tracey Rechtorik,

("Grantee(s)")

~~Witnesseth~~, that in consideration of payment by the Grantee(s) to the Grantor(s) of Forty-five thousand (\$45,000.00)

Dollars,

the Grantor(s) do(es) hereby grant, sell and convey to the Grantee(s), her heirs and assigns

~~THAT~~ that certain lot, or piece of ground, situate in the 29th Ward of the City of Pittsburgh, County of Allegheny, and Commonwealth of Pennsylvania, being lot 235, in the Grailo Plan of Lots, recorded in the Recorder's Office of said County in Plan Book Volume 17, pages 74 and 75; being more fully described as follows:

BEGINNING at a point on the Northwest corner of Leelyn (formerly Lilac) Street and Appian Way (formerly Beach Alley); thence Westwardly, along Appian Way, 170 feet to Lunar Way (formerly Cherry Alley); thence Northwardly, along Lunar Way, 25.28 feet to a point, at the dividing line between Lots 235 and 236 in said plan; thence Eastwardly, by said dividing line, a distance of 166.19 feet to a point on Leelyn Street; thence Southwardly, along Leelyn Street, a distance of 25 feet to the place of beginning.

HAVING erected thereon a two-story frame house, known as 1814 Leelyn Street, Pittsburgh (Carrick), Pennsylvania.

BEING designated as Block and Lot 60-N-86 by the Office of Deed Registry of Allegheny County.

BEING also the same property that Teresa Sabol, Administratrix a.t.a.

01/25/2006 16:32 FAX 412 884 7186

KELLER WILLIAMS REALTY

2

of the Estate of Domenico Ricci, also known as Dominic Ricci, Deceased, the surviving spouse of Nicolina Ricci, by his deed dated November 15, 2002 and recorded in the Office of the Recorder of Deeds of Allegheny County in Deed Book Volume 11512, Page 490 granted and conveyed to DNS HOLDINGS LLC, a Pennsylvania limited liability company, Grantor herein.

with the appurtenances: *To Have and To Hold* the same to and for the use of the said Grantee(s) her heirs and assigns forever. And the Grantee(s) for itself, its successors and assigns assigns hereby consent and agree that *will WARRANT* generally the property hereby conveyed *(WHETHER SEVERALLY OR JOINTLY)*

NOTICE - THIS DOCUMENT MAY NOT SEAL, CONVEY, TRANSFER, ENCLOSE OR EXPOSE THE TITLE TO THE COAL AND RIGHT OF SUPPORT IMMEDIATELY THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY BUILDING, FENCE OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT EXCLUDE, RESTRICT OR DENY ANY LEGAL RIGHTS OR REMEDIES OTHERWISE CREATED, TRANSFERRED, RESERVED OR RESERVED BY THIS INSTRUMENT. [This notice is not being presented for Act No. 205, approved September 14, 1965, as amended.]

In WITNESS WHEREOF, the Grantee(s) hereunto set its hand(s) and seal(s) the day and year first above-written

Witness: *Charles A. Byer* DNE HOLDINGS LLC  
*Nancy A. Smith*  
*Don Smith*  
 DON SMITH

# NOTICE

I / WE, THE UNDERSIGNED GRANTEE / GRANTEES, HEREBY CERTIFY THAT I / WE KNOW AND UNDERSTAND THAT I / WE MAY NOT BE OBTAINING THE RIGHT OF PROTECTION AGAINST SUBSIDENCE RESULTING FROM COAL MINING OPERATIONS AND THAT THE PURCHASED PROPERTY MAY BE PROTECTED FROM DAMAGE DUE TO MINE SUBSIDENCE BY A PRIVATE CONTRACT WITH THE OWNERS OF THE ECONOMIC INTEREST IN THE COAL. THIS NOTICE IS INSERTED IN ACCORDANCE WITH THE PROVISIONS OF THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1980 AS AMENDED 1980, OCT. 10, P.L. 874, NO. 155 §1.

WITNESS: *Tracy Rechtorik*  
*Tracy Rechtorik* Tracy Rechtorik  
 This *20* Day of *February* in The Year *2005*

# CERTIFICATE OF RESIDENCE

I hereby certify that the present residence of the Grantee(s) is *1814 LEOLYN STREET*  
*Pittsburgh, Pa 15210*

STATE OF MICHIGAN  
 County of *Allegheny*  
 COUNTY OF BARRY

On this *26th* day of *JAN* in the year *2005*, before me a Notary Public appeared DNE HOLDINGS LLC By Nancy A. Smith and Don Smith, known to me (or satisfactorily proven) to be the person whose name subscribed to the within instrument, and acknowledged that executed the same for the purpose therein contained.

In WITNESS WHEREOF, I set my hand and official seal.  
*9/28/07*  
 My Commission Expires *9/28/07*  
*Kay Cunningham*  
 Notary Public



01/25/2005 16:32 FAX 412 894 7168

KELLER WILLIAMS REALTY

6

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ } on \_\_\_\_\_  
On this the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_  
before me \_\_\_\_\_ the undersigned officer, per  
appeared \_\_\_\_\_

known to me (or satisfactorily proven) to be the person whose name subs  
the within instrument, and acknowledged that executed the same for the purpose therein contains  
In Witness Whereof, I set my hand and official seal.

My Commission Expires \_\_\_\_\_

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ } on \_\_\_\_\_  
On this the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_  
before me \_\_\_\_\_ the undersigned officer, per  
appeared \_\_\_\_\_

known to me (or satisfactorily proven) to be the person whose name subs  
the within instrument, and acknowledged that executed the same for the purpose therein contains  
In Witness Whereof, I set my hand and official seal.

My Commission Expires \_\_\_\_\_

**DEED**

From

DWS HOLDINGS LLC, a Pennsylv  
vania limited liability  
company

To

TRACY REGISTORIK

Per, \$

**Record & Return to:**

Security Settlement Sves  
150 ROBINS STATION ROAD  
Pittsburgh, PA 15206